

Message Text

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41

ACTION L-03

INFO OCT-01 EUR-12 NEA-10 IO-10 ISO-00 CIAE-00 DODE-00

PM-04 H-02 INR-07 NSAE-00 NSC-05 PA-01 PRS-01 SP-02

SS-15 USIA-06 MC-02 EB-07 NRC-05 TRSE-00 ERDA-05

COME-00 OPIC-03 AID-05 IGA-01 /107 W

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R 100920Z NOV 75

FM AMEMBASSY KUWAIT

TO SECSTATE WASHDC 4043

INFO AMEMBASSY ABU DHABI

AMEMBASSY BEIRUT

AMCONSUL DHAHRAN

AMEMBASSY DOHA

AMEMBASSY JIDDA

AMEMBASSY MANAMA

AMEMBASSY MUSCAT

AMEMBASSYTEHRAN3105

USINT BAGHDAD

USMISSION OECD PARIS

USMISSION USUN NEW YORK

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E.O. 11652: NJYA

TAGS: BQD

GC PFOR, PINR KU

SUBJECT: BRIBERY OF FOREIGN OFFICIALS BY US FIRMS

OPERATING ABROAD

REF: STATE 258169

1. IN KUWAIT BASIC STATUTES COVERING AGENTS ARE ARTICLE 27
OF THE COMMERCIAL LAW AND LAW 36 OF 1964. UNDER THESE LAWS
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FOREIGNERS, IN GENERAL, WISHING TO DO BUSINESS IN KUWAIT, SUCH

AS TO MAKE CONTRACTS, REQUIRE A KUWAIT AGENT. THE KUWAITI MAY BE A NATURAL OR LEGAL CITIZEN OF THE STATE. THUS, IT IS STANDARD PROCEDURE FOR FOREIGN COMPANIES DEALING WITH GOK TO BE REPRESENTED BY A LOCAL AGENT, AND THE NORM IS FOR SUCH AGENTS TO BE SPECIFICALLY REQUIRED IN GOVERNMENT TENDERS.

2. MOST NOTABLE EXCEPTION PERTAINS TO CONSULTANTS WHO ARE SPECIFICALLY PROHIBITED FROM HAVING AN AGENT. SOME GOVERNMENT AGENCIES SUCH AS THE MINISTRY OF DEFENSE AND THE NATIONAL HOUSING AUTHORITY HAVE INDICATED THAT THEY WISH TO DEAL DIRECTLY WITH FOREIGN PARTIES AND HAVE SPECIFICALLY DIRECTED THAT NO LOCAL AGENTS BECOME INVOLVED. SOME LOCAL COMPANIES MAKING LARGE PURCHASES SUCH AS KUWAIT AIRWAYS AND KUWAIT NATIONAL PETROLEUM COMPANY HAVE THEMSELVES BEEN NAMED AS AGENT FOR PURPOSES OF SPECIFIC CONTRACT. IN SHORT, IT IS NORMAL FOR LOCAL AGENT TO PARTICIPATE IN CONTRACTS WHERE FOREIGNERS ARE INVOLVED, BUT THERE ARE IMPORTANT EXCEPTIONS OR VARIATIONS.

3. UNDER LAW 16 OF 1960, ARTICLES 114-125 AND LAW 31 OF 1970, ARTICLES 35-39 BRIBING AN OFFICIAL OF GOK IS A CRIME BOTH FOR PERSON MAKING BRIBE AND PERSON RECEIVING IT. 1970 LAW STRENGTHENS ORIGINAL 1960 ACT. PRISON TERMS OF AS MUCH AS TEN YEARS, FINE OF TWICE VALUE OF BRIBE OR BOTH CAN BE LEVIED UNDER THESE LAWS FOR PERSONS FOUND GUILTY. WE WERE TOLD OF MINISTRY OF JUSTICE OFFICIAL WHO ACCEPTED \$300 EQUIVALENT BRIBE AND AS RESULT WAS SENTENCED TO 6-7 YEAR PRISON TERM.

4. IT WOULD BE MISLEADING TO SUGGEST THAT BRIBERY DOES NOT EXIST IN GOK, BUT LAW IS CLEAR AND IS AT LEAST PARTIALLY ENFORCED. MOREOVER, BASED ON COMMENTS OF MANY BUSINESSMEN WHO ARE FAMILIAR WITH REGIONAL BUSINESS PRACTICES, WE GATHER PROBLEM OF BRIBERY IS LESS PREVALENT HERE THAN IS GENERALLY TRUE OF MIDDLE EAST. WE THINK OUTRIGHT BRIBERY IS RELATIVELY RARE. MORE COMMON ARE NUMEROUS SITUATIONS INVOLVING WHAT WE WOULD DESCRIBE AS CONFLICT OF INTEREST. FOR EXAMPLE, OFFICIALS OF MINISTRY OF OIL ALSO REPRESENT COMPANIES SEEKING LARGE CONTRACTS FROM THE MINISTRY. THIS IS NOT YET ILLEGAL IN KUWAIT, AND IT COMMON FOR GOVERNMENT OFFICIALS OR THEIR RELATIVES TO HOLD PRIVATE BUSINESS POSITIONS WHICH LIMITED OFFICIAL USE

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MAY BE RELATED TO OFFICIAL DUTIES. THERE ARE SOME INITIAL INDICATIONS, HOWEVER, THAT CONCERN IS GROWING OVER CONFLICT OF INTEREST PROBLEM.

5. AS SOON AS EMBASSY IS ABLE TO OBTAIN COPIES OF LAWS CITED ABOVE, WE HALL TRANSLATE THEM AND POUCH TRANSLATIONS TO DEPARTMENT (L/PM).
STOLTZFUS

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CORRUPTION, BUSINESS FIRMS, PUBLIC ADMINISTRATION
Control Number: n/a
Copy: SINGLE
Draft Date: 10 NOV 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ShawDG
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975KUWAIT04673
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750392-0329
From: KUWAIT
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751159/aaaacaxb.tel
Line Count: 115
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 STATE 258169
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 29 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <29 MAY 2003 by ElyME>; APPROVED <12 NOV 2003 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: BRIBERY OF FOREIGN OFFICIALS BY US FIRMS OPERATING ABROAD
TAGS: PINR, PFOR, KU
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006